

A-166
15-7
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14-3-47

File No. 90
1914

Collection No.

Res. File 90 of 1914

Mysore Residence

Pros. Serial Nos. 1-5

Subject.

Construction by the Municipality
of Aga Abbas Ali Road in Ulsoor

Previous References.

Later References.

File No. 9071914

D.1

Office Note.

Letter No. _____ dated 11th March 1914
from the President, Kungälv Rate Payers' Association,
and the President, Municipal Committee -

SUBJECT.

Agn Åhus Eli Road -

vide memo
from H.N.I.

The President of the Municipal Committee does not repudiate acceptance by the Municipality of the gift of the strip of land in question. The strip is obviously intended for a road, & the owners of houses which have been built with the permission of the Municipality & in respect of which, land, water & other taxes are paid, have a legitimate claim on the Municipality for a proper road. It is for the owners to fight with the Municipality in the manner provided by law for a remedy. As the matter however concerns a number of house-owners it may perhaps be regarded as one of public interest, & the Rate Payers' Association ^{therefore} have addressed the President on the subject.

2. All the facts of the case are not available here, & the Municipal President

forwarded

forwarding memorandum is very brief. The
proper course for the Rate Payers' Association appears to be
to address the Municipal Commission in
the first instance & if the Commission's reply
be not satisfactory, to ~~make a representation~~
~~to the Resident~~ take such further action as they may
be advised - (If Resident be satisfied with the Commission
his made default in providing a suitable road
for the convenience of the owners of the houses
concerned, action can be taken under sec.
172 of the Municipal Law.)

3. It does not seem desirable to pass on
the Rate Payers' Association's letter to the Municipality at this stage
for the facts of the case. This, if necessary, can
be done when the Association has addressed the
Commission in the first instance & if their receipt
of their reply, send a representation to the Resident.

Submitted for forwarding.

AS.
24/3/14

This representation of the Rate Payers'
Association seems to be an appeal against
Resolution No 4 of the Municipal Commission. flap A
passed on the 26th Feb 1914.

It is admitted that the land intended
for the road vests in the Municipality.

25/3/14
E.F.

Notes-continued

3.
and if the owners of houses pay the
taxes under the Bangalore Municipal Law,
they seem to have a reasonable claim
on the Municipality to ^{construct and} maintain
the road - vide section 69 (2) (a), B.M. Law

Perhaps this may be said D.D. to the
President.

A.S.
m/c

Issue of below.

MBW
25/3

S. 2.

Issued No. 2189 & 26th March 1914

A.S.

D.D. letter No. 1138, of 20th May 1914, from
the President, Municipal Commission, Channarayana.

legat

It appears from Mr. Cox's letter that the
road in question is not required for public
purposes. Such being the case, it is not
understood why the Commission have
resolved to take it over when it has
been constructed by the owners of the
land & passed by the Municipal Engineer.
It is also not clear why the Commission
have laid water & installed street
lighting on this road when it does not
belong to them & is not wanted for
public purposes.

May

by their acts, the municipality have clearly recognized the road as required for public purposes, but they may have been under the impression that the road would be constructed ^{at the expense of} the persons ^{owning} ~~residing~~ the houses.

Margin for binding not to be written on.

It would be as well for the municipality to descend a bit from their altitude & to persuade the persons concerned ^{by way of compromise} to pay a portion of the estimate & construct the road ^{themselves (municipality)} & surely their present income in way of taxes on the property in question must have been considerably increased by the separate levy of taxes on the several buildings that have been built on in the compound of the property -

Submitted.

61
22/7/14

On the facts now stated there do not ^{seem} to be sufficient grounds to overrule the decision of the Municipal Commission, and Mr Webster may be informed that after enquiring the Resident sees no reason to interfere in the matter.

AS
22/5

Mr. Cox.

Calls I see the previous Municipal papers on the subject. The action of the Commission throughout seems to indicate that they were going to build the road, but does the E.E. frame an estimate

No. 3502.

5/23/5/44.

Margin for
binding not
to be written
on.

Notes-continued

of submit it to the Standing Committee? It shall surely
go to at any rate in the first place to the persons who
have to pay for it.

MRW
23/5

F.A.R.

I forward the previous papers on the
subject. acc 10/6

Rest.

Please see Serials 1, 2 & 3. I do not think the
Municipal Commission are playing quite fair on
this. It was obviously intended that the Municipality
should make the road. In this connection please see
the Municipal file linked. In Ser 1 Mr. Aga Khan
Ali distinctly offers to hand over land to the
Municipality for a road. In Ser 10 Mr. Stephens
implies that a thoroughfare should be made.
In Ser 23 the Commission pass a resolution that
water & electric light should be extended to the road
& that the new thoroughfare be installed. In Ser
35 the Municipality give notice about the making
of the new thoroughfare & in Ser 37 the Municipality
submit an estimate & suggests ways of
the Commission paid for the water &
electric light but in Ser 42 refuse to pay for the
road at all. According to them should be paid by the owners
of the houses. The owners of the houses do not appear

x
Flag K

Flag A
1

Flag E

to have been consulted at any stage of the proceedings
he has at any time been asked if he wd.
undertake to make the road. I wd. suggest
replying as in the draft below.

MBL
11/6

Thanks. I put after
[Signature]

MBL
15/6

Issued No. 4027 25.6.1914.

S.4.

Letter No. 2352, of the 17. July 1914, from the
President, Municipal Commission, Coton d'Ivoire
Monrovia.

8.5

The Municipal Commission's action now
reported is satisfactory, & the President's letter
may be recorded.

(There seems to be no need to communicate
with the Monrovia Ratepayers' Association with reference
to their letter of 11. March 1914. Apparently the
Association knows what has since been done by the
municipality.)

8.1

HS
27/7/14

20/7

May be filed.

MBL
21/7

Margin for
writing not
to be written
on.

NOTES AND PRECIS.

S. 6.—R. P. B.—10-11.—4,000.

From,

J. H. Webster Esquire,

President,

Bangalore Rate Payers Association;

✓ x
1903
21-3-14

To,

907/1914

Col. Sir Hugh Daly K.C.I.E.,

The Hon'ble the Resident in Mysore.,

B A N G A L O R E.

Through,

A.R. Cox Esquire, B.A., I.C.S.,

President Municipality,

Civil and Military Station.

Dated, Bangalore // ¹¹/₁₁ March 1914.

Sir,

On behalf of the owners of houses situated on the new Aga Abbas Ali Road, I beg to request your kind consideration of the decision arrived at by the Municipal Commissioners at their last meeting, to the effect that-"It was for the owners of these houses to first make the road and then hand it over to the Municipality:-" I confidently hope that the circumstances to which I propose to invite your attention now, will justify my request and make it abundantly clear to you what the intention of the President of the Municipality was in accepting a strip of land in the first instance from the original owner for the construction of a new road, and subsequently in asking him for a further strip-"to connect it with the heart of the town"- (Vide Executive Engineers letter No 556 dated 10th February 1910). The correspondence on the subject can leave no room for doubt in any unbiased mind that it was never the intention of the

the President of the Municipality to saddle the owners of the newly built houses with the cost of constructing the road.

2. To begin at the beginning; on the 17th September 1909 Mr Aga Abbas Ali applied for sanction to build 9 houses; offering at the same time to make over to the Municipality a strip of land for purposes of a road and asking only that the road be named after himself. In making this offer he clearly implied that the cost of construction would be borne by the Municipality; for what he did offer was not a brand new road constructed by himself, but a strip of land to be used for the purpose by the Municipality if his offer was accepted.

3. In letter No 4393 dated 16th December 1909 the President forwarded the application and accompanying plan to the Health Officer for report, and the papers having been laid before the Health Committee, Major Standage as Chairman of the Committee forwarded to the President the Committee's proceedings approving and sanctioning the application.

4. We now come to the action taken by the Executive Engineer. In his letter No 556 dated 10th February 1910 to the President he stated that Mr Aga Abas Ali was willing to give the Municipality a part of a strip of land running through his ground, for the construction of a road, but he suggested that Mr Aga Abas Ali should be asked for a further strip to complete the connection between Ulsur Road and Gungathara Chetty Road and thus open a way into- "the heart of the town"- In reply to the request that was accordingly made, Mr Aga Abas Ali very kindly consented to present the Municipality with the additional strip asked for, and this being accepted, the following notice dated 9th July 1913 No 2290 was issued to the Public by the President.

"The Commission resolved that the new thoroughfare connecting Ulsur Road with Gangathara Chetty Road will be

be known as Aga Abas Ali Road"- a stone was also put up with an inscription to the same effect.

5. The land having thus passed into the possession of the Municipality the necessary steps ^{were} ~~was~~ taken by them to make use of it for public purposes, for in his letter to the Chief Electrical Engineer Mysore Government No.1198 dated the 3rd May 1913 the President after giving him the same Notice that had been issued to the Public, called for an estimate for the Electric lighting of the new road; and again in his letter to the A. C. R. E. No. 2288 dated 9th July 1913 the President called for an estimate for laying a water pipe down, the Commission having previously on the 26th June 1913 sanctioned the construction "at once of a fair weather road"- The road was constructed and the water laid on at the expense of the Municipality:-

6. A careful consideration of the foregoing circumstances must establish I think the following points

(a) That the land in question was made over as a free gift by Mr Aga Abas Ali to the Municipality and accepted by the President on the understanding that it would be used for a public purpose and for the benefit of the Public.

(b) That this transaction was entirely one between Mr Aga Abas Ali and the Municipality, it having been entered on and completed before Mr Aga Abas Ali parcelled it out and sold it to the present owners.

(c) That the present owners were no parties to the transaction and could not possibly have any reason to suppose that they would be required to bear the cost of completing a road the construction of which had already been begun and was apparently undertaken by the Municipality.

(d) That the subsequent act of the Municipality after taking over the land, in constructing a-"fair weather road"- in laying down a water pipe, and in calling for an estimate for

for Electric lighting prove beyond all doubt that they regarded the land as absolutely their property and imply an intention on their part to construct a properly metalled road as a public thoroughfare.

7. That the road the construction of which was contemplated was not intended solely for the benefit of those who might hereafter build houses on both sides of it, though naturally it would benefit them while helping the Municipality also, the road it was hoped, would serve a useful purpose and it was intended to be a convenience and benefit to the public. Even if no houses had been built, or if there had been a delay in the building of the houses, it may well be presumed that the road would have been constructed in the interest of the public.

8. It was urged as an argument against my contention that in England- "Owners are compelled to make the road passing their houses"- My answer to that is; whatever the practice may be in England, and to my certain knowledge it is not uniform, it does not follow that what obtains in England must obtain in India also, where the conditions are so different. Besides, as I have tried to show, the road with which we are concerned, had, to a great extent already been made and it was being dealt with by the Municipality as property absolutely in their possession.

If those who bought the ground in plots from Mr Aga Abas Ali had known that they would be required to pay for the completion of the road, it is quite possible that some of them may have hesitated to do so, at any rate it would have affected the prices. The existence of the road in an incomplete condition, the belief that it was Municipal property and the advantages it offered were all determining factors in the valuation of the land that was purchased by them for building purposes. If they laboured under an erroneous belief in thinking that the Municipality would complete the road at their own expense they certainly did everything to encourage the belief and

and nothing to correct it-

9. At present then, the position appears to be this. The road does not belong to Mr Aga Abas Ali who declares that he parted with it to the Municipality. It does not belong to the owners of the newly built houses for they did not acquire it from Mr Aga Abas Ali or from the Municipality. To whom then does it belong? If it belongs to no one in particular; if it is no man's land, then it must belong to ^{the} Government and you, Sir, as representing the local Government may request that the road be metalled from the annual grant made by the Government to the Municipality for suburban roads.- If this is impracticable, it is in your power to order the completion of the road to be treated as a special Sanitary measure and the cost met from the recurring Sanitary grant of Rs 50,000 made to the Municipality.

10. The Municipality in declaring that they will take the road over when constructed would seem to imply that the road is not yet theirs! but all their previous acts if they mean any thing, prove that before any houses were built they regarded the road as belonging to them.

11. Apart from all that has been said, I would ask that the question be considered in a broad and liberal spirit. Bangalore is a growing station, every year ~~at~~ sees an influx of persons from all parts of India who desire to settle in a place that has so many advantages to offer. The difficulty is to find accommodation for the large and increasing number, the Station is in fact becoming congested for want of building space and house rent is rising rapidly for want of a sufficient number of houses to meet the growing demand for them. Every house that is newly built, therefore, must tend to relieve the congestion and supply a want that is being acutely felt, ^{while} ~~which~~ it necessarily adds to the revenue of the Municipality. It would seem, therefore, to be good policy on the part of the Municipality to encourage people to build new houses on waste land, rather than to throw difficulties &

difficulties in their way.

12. The facts I have stated, the correspondence I have cited, the considerations I have set forth all furnish sufficient grounds I think for the reopening of the question, and I am not without hope that a reconsideration of it will lead to a reversal of the decision that was arrived at too hastily and without regard to all the circumstances of the case.

In conclusion I would ask you, Sir, to kindly visit the spot when I should be very pleased to attend and give you any further explanation, or, if you so desire I would ^{wait} on you at the Residency.

I have the honor to be,

Sir,

Your most obedient servant,

H. Webster

President, Bangalore Rate Payers Association.

No: 4676 dated 19th March 1914.

21/3

Forwarded to the First Assistant Resident.

It is my opinion that the land vests in the Municipal Commission, though there is no actual record of it being taken over and they cannot now repudiate acceptance of the gift.

The only parts of Mr. Webster's letter to which I do not agree are:-

(1) para 7.- his contention that the road would have been constructed even if no houses had been built,

and (2) para 9.- that the land belongs (by default) to government and that a road should be constructed out of the special sanitary grant.

an

President, Municipal Commission,
Civil and Military Station, Bangalore.

2

D.O. [DRAFT.]
M.B. Warburton

From

A. R. Cox

To

No. 2189
8/26 - March 1914.

()

Will you please refer to your endorsement No 7676 dated the 19th March 1914 with which you forwarded a petition from the Rate Payers' Association against the action taken by the Municipal Commission in regard to the Aga Abbas Ali road. From the Com^r's letter by Mr. Webster it would certainly appear that the land was made over to the Municipality for the purpose of making a road to the intention but provided that the Municipality should construct the road, which is apparently to be a thoroughfare linking up different parts of the town, appears to me to be quite right. I take it that the appeal is lodged against Resolution No 4 which was passed at the meeting of the Commission on the 26th Feb. 1914. Perhaps you could explain on what grounds the standing Committee decide that the house-owners should build the road.

(Continuation of Draft).

change. I am disposed at present
to think that this action is distinctly
arbitrary & unfair. I understand that
the facts relative to the transaction, as
set forth by Mr. Webster, are not
disputed.

Yours truly

J. P. P. Wamberton

J
26-3-16

D.O.

No 1138
20.5.14

3

C. & M. Station Municipality,

Bangalore, 20 May 1914.

My dear Mr. Webster

- 21/5

RESIDENTIAL OFFICE In reply to your D.O.No:2189 dated 26th March

1914, I have to say that the appeal in question is, as
you surmise, lodged against the Resolution No:4 of the
meeting of 26th February 1914.

Mr. Webster is not quite accurate in speaking of
this thoroughfare as linking up different parts of the
town. Regarding his para 4 the correct version is this.
In his note No.556 of 10th February 1910 the Executive
Engineer stated that Mr. Abboy Naidu (not Mr. Aga Abbas Ali)
was willing to give a strip of land running through his
ground and suggested that Mr. Aga Abbas Ali should be asked
for a further strip "to connect Aga Abbas Ali's new houses
with the heart of the town".

Up till now neither Mr. Abboy Naidu nor Mr. Aga
Abbas Ali have given these strips of land. It is not
therefore correct to describe the road now in question as
connecting the new houses with the heart of the town.

The road in question would not have been, it
must be agreed, required except by reason of the houses
newly built on the estate.

It is purely a road to connect these houses with
the 2 neighbouring public thoroughfares.

Except in this respect I believe that the facts
are as stated by Mr. Webster.

3. The Standing Committee decided against the esti-
mate on principle. No doubt the principle is a sound one.
It will be a great expense to the Municipality if whenever
a new house is built they should have to construct a
feeder road to it.

I do not know if the acts of the Commission in

in taking water and light along the road and in constructing a fair weather road (to facilitate the building operations) must necessarily be considered as admissions of ownership of the road land. They were done at the request of the owners of the houses (I believe) or at any rate in pursuance of resolutions inspired by such owners.

5. The Commission subsequently finding that there was no record of the land ever being accepted or taken over seized on the opportunity of following the "principle" referred to above and by 10 to 7 voted against the road being made at Municipal expense.

flym

6. I admit that their making capital out of what was after all probably an unintentional omission and a mere formality is unfair to the present owners of the houses. The original owner of the estate has of course sold the land in plots and the present owners paid the prices they did for their plots under the impression that a road thoroughfare would be provided at municipal expense.

Yours sincerely
an. luv

To

P. B. Warburton, Esq., I. C. S.,
First Assistant Resident,
B a n g a l o r e.

[DRAFT.]

From

F. A. R.

To

President P. & S. Municipality

Sir

10-40279-^{2nd} file 101
1909
16th June 1914

I am directed to write a reference to you endorsement no. 7676 dated the 19th March 1914 with which, was forwarded a protest from Mr. Webster against the decision passed by the Municipal Commission to the effect that the new Aga Abbas Ali was shd. be constructed by the owners of the houses concerned.

2-

While the Resident fully agrees with the principle governing the resolution passed by the Commission at their meeting dated the 26th Feb. 1914 he is of opinion that it bears very heavily on the houses in the case under discussion. A perusal of the case on the subject clearly indicates that it was generally understood that the Municipality wd. undertake the construction of the road. In the first instance Mr. Aga Abbas Ali

Municipal File
Ser 42

File No.

(Continuation of Draft)

offers to give the necessary land
to the Municipality for this purpose &
agreed to extend the width of the
road at the suggestion of the Municipal
Engineer. In the second place the
Commission at a meeting held on the 26th
June 1913 passed a resolution to the
effect that water & electric light be
extended to the Aga Abbas Ali road &
that this have to be metalled at
an early date. The officers concerned were
asked to provide estimates for these several
works & the Commission at their own
expense supplied water & electric light.
The Municipal Engineer submitted an
estimate for metalling the road & made
suggestions as to the manner in which the
expenditure should be met. It does not
appear that the names of the houses
were at any time included in the matter,
nor were they asked if they were prepared
to bear the cost of the road. In these
circumstances Sir Hugh Dalrymple suggested that
the Commission should reconsider their resolution
of the 26th Feb. 1914. He is disposed
to think that in a case of this kind the
Commission should at the very outset announce
whether they are prepared to construct a road

Ser. 1

Ser 23 Page A
(rel. file)

Ser 37 & 38.
(rel. file)

(Continuation of Draft.)

A consideration that the owners of the houses
on lands should be called upon to do so.
If this procedure is strictly followed in
future, the Board sees no reason to believe
that an awkward precedent will be created
by the Commission under the Metalling
of the Ayaz Abbas Ali Road. The case
is little different than the building plots built
~~under~~ under the impression that the road
would be constructed at the cost expense of
the Municipality & the action taken by
the Commission up to the making up to the
date of their last resolution under the
Confirms that impression.

4- Municipal File No 107 of 1909 is
returned herewith

I have &c
Sd/- P. B. Warburton
First Assistant

ms 6/6/10

No. 352
PRESIDENT'S OFFICE,
MUNICIPAL COMMISSION,
CIVIL AND MILITARY STATION, BANGALORE.
Dated 17th July 1914
1917
Regd. No. 4607
Date of Receipt 28/7/14
File No. 901514

CIVIL AND MILITARY STATION, BANGALORE.

MUNICIPAL OFFICE.

DATED 17th July 1914

A. R. COX, ESQUIRE, B. A., I. C. S.,

President, Municipal Commission,

C. & M. Station, Bangalore.

To,

P. B. WARBURTON, Esquire, I. C. S.,

First Assistant to the Hon'ble

the Resident in Mysore, BANGALORE.

SIR,

5.4 With reference to para 3 of your letter No. 4027, dated 16th June 1914, I have the honor to report for the information of the Hon'ble the Resident that the Municipal Commission have, on the 25th June 1914, reconsidered their resolution of the 26th February 1914 and decided that the estimate for Rs. 617/- prepared by the Executive Engineer for metalling Aga Abbas Ali Road be passed.

2. The work will be put in hand at an early date.

I have the honor to be,

Sir,

Your most obedient servant,

President, Municipal Commission,

Civil and Military Station, Bangalore.